

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No. 10-PM-10194-PEM
)	
JAGROOP SINGH GILL,)	
)	ORDER GRANTING MOTION TO
Member No. 113696,)	REVOKE PROBATION AND FOR
)	INVOLUNTARY INACTIVE
<u>A Member of the State Bar.</u>)	ENROLLMENT

I. Introduction

In this probation revocation proceeding, respondent **Jagroop Singh Gill** is charged with violating his probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to revoke his probation, to impose upon respondent the entire period of suspension previously stayed, and to involuntarily enroll respondent as an inactive member of the State Bar.

The court finds, by preponderance of the evidence, that respondent has violated his probation conditions and hereby grants the motion. Therefore, the court orders that respondent be involuntarily enrolled as an inactive member of the State Bar. The court also recommends, among other things, that respondent's probation be revoked, that the previously stayed, six-month suspension be lifted and that he be actually suspended for six months.

II. Pertinent Procedural History

On November 10, 2010, the Office of Probation filed and properly served a motion to revoke probation on respondent. The motion was mailed to respondent's official membership records address. Respondent did not file a response within 20 days of the service of the motion.

The court took this matter under submission on December 13, 2010.

III. Findings of Fact and Conclusions of Law

All factual allegations contained in the motion to revoke probation and supporting documents are deemed admitted upon respondent's failure to file a response. (Rules Proc. of State Bar, former rule 563(b)(3) [current rule 5.314(C), effective January 1, 2011].)

A. Jurisdiction

Respondent was admitted to the practice of law in California on June 15, 1984, and has since been a member of the State Bar of California.

B. Probation Conditions in Supreme Court Case No. S181843

On June 4, 2010, in Supreme Court case No. S181843 (effective July 4, 2010), the California Supreme Court ordered, among other things, that:

1. Respondent be suspended from the practice of law for six months, that execution of the suspension be stayed, and that he be placed on probation for two years, as recommended by the Hearing Department of the State Bar Court in its decision filed January 22, 2010 (State Bar Court case No. 08-C-12809); and
2. Respondent comply, among other things, with the following probation conditions:
 - a. Comply with the State Bar Act and the Rules of Professional Conduct and report such compliance to the Office of Probation under penalty of perjury each January 10, April 10, July 10, and October 10;

- b. Comply with all conditions of probation imposed in the underlying criminal matter (UCM) and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation (UCM report); and
- c. Furnish to a licensed medical laboratory such blood and/or urine samples as may be required to show that he has abstained from alcohol and/or drugs. Respondent must cause the laboratory to provide to the Office of Probation, at his expense, a screening report on or before the 10th day of each month of the probation period, containing an analysis of his blood and/or urine obtained not more than 10 days earlier.

Notice of this Supreme Court order was properly served upon respondent in the manner prescribed by California Rules of Court, rule 8.532(a), at respondent's official address in accordance with Business and Professions Code section 6002.1.¹

C. Quarterly Report, Monthly Alcohol/Drug Use Testing and Criminal Probation Compliance Report

On June 22, 2010, probation deputy Cindy Jollotta of the Office of Probation sent a letter to respondent outlining the terms and conditions of his probation. The letter with attachments was also faxed to respondent at his request on August 3, 2010.

In August and September of 2010, the Office of Probation spoke with respondent on several occasions regarding his alcohol and/or drug use testing. Respondent appeared to have attempted to be tested; but the Office of Probation had not received any of the lab test results for July, August or September 2010. On October 13, respondent did file the screening results for a test done on October 12, 2010, which report was due on or before October 10 (three days late).

¹References to sections are to the provisions of the Business and Professions Code.

On August 20, 2010, the Office of Probation sent a reminder letter to respondent regarding his non-compliance with his probation conditions.

Nevertheless, respondent failed to submit his first quarterly report and his UCM report that were due October 10, 2010. He also failed to file the lab test results for July, August and September 2010.

D. Conclusions of Law

Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending and may constitute cause for discipline.

Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter. Instead, a general purpose or willingness to commit an act or permit an omission is sufficient. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

Respondent willfully violated his probation conditions ordered by the Supreme Court in its June 4, 2010 order by failing to do the following:

1. Submit the quarterly report due October 10, 2010;
2. Submit his first UCM report due October 10, 2010; and
3. File screening results of his alcohol/drug use testing for his first three months of probation, which were due on or before July 10, August 10, and September 10, 2010.

As a result, the revocation of respondent's probation in California Supreme Court order No. S181843 is warranted.

IV. Mitigating and Aggravating Circumstances

The parties bear the burden of proving mitigating and aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)²

A. Mitigation

Since respondent did not file a response to the probation revocation motion, no evidence in mitigation was presented and none is apparent from the record. (Std. 1.2(e).)

B. Aggravation

In aggravation, respondent has one prior record of discipline. (Std. 1.2(b)(i).) In the underlying matter, effective July 4, 2010, respondent was ordered suspended for six months, stayed, and placed on probation for two years with an actual suspension of 30 days for his felony conviction involving driving under the influence and causing bodily injury. (Supreme Court case No. S181843; State Bar Court case No. 08-C-12809.)

Respondent committed multiple acts of wrongdoing, including failing to submit one quarterly report, his UMC report and three screening results for alcohol and/or drug use testing. (Std. 1.2(b)(ii).)

An attorney's continued failure to comply with his probation conditions after being notified of that noncompliance is properly considered a substantial aggravating circumstance. It demonstrates indifference toward rectification of or atonement for the consequences of one's misconduct. (Std. 1.2(b)(v); *In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.) Although the motion to revoke his probation was filed in November 2010, which put respondent on notice that his probation status was in jeopardy and that his past

²All further references to standards are to this source.

quarterly report, UMC report and screening results were delinquent, respondent still failed to submit any of the reports.

Respondent's failure to participate in this proceeding is also an aggravating factor. (Std. 1.2(b)(vi).)

V. Discussion

The Office of Probation urges that respondent's probation be revoked and that he be actually suspended for six months, the entire original period of stayed suspension. The court agrees.

Public protection and attorney rehabilitation are the primary goals of disciplinary probation. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452.) Respondent's prior misconduct and his present probation violations involve inattention to his professional duties and a continued unwillingness or inability to conform to the standards required of attorneys. Absent compelling mitigation, an attorney who willfully violates a significant probation condition can anticipate actual suspension as the expected result. (*In the Matter of Gorman* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567, 574.)

The Office of Probation further recommends that respondent be placed on involuntary inactive status under section 6007, subdivision (d), for failing to comply with the terms of his disciplinary probation. It is possible that if respondent was placed on involuntary inactive status, by the time the Supreme Court order imposing discipline in this matter became effective, respondent would have been precluded from practicing law for a longer period than the recommended discipline.

But in light of the particular circumstances of this case and respondent's failure to submit alcohol/drug testing results,³ public protection is paramount and thus necessitates respondent's immediate inactive enrollment under section 6007, subdivision (d).

VI. Recommendations

Accordingly, the court recommends as follows:

A. Discipline

The court recommends that the probation of respondent, **Jagroop Singh Gill**, previously ordered in Supreme Court Case No. S181843 (State Bar Court case No. 08-C-12809) be revoked, that the previous stay of execution of the six-month suspension be lifted, and that respondent be suspended from the practice of law in California for six months.

B. Multistate Professional Responsibility Exam

It is not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination since he was previously ordered to do so in S181843.

C. California Rules of Court, Rule 9.20

It is also recommended that the Supreme Court order respondent to comply with California Rules of Court, rule 9.20, paragraphs (a) and (c), within 30 and 40 days, respectively, of the effective date of its order imposing discipline in this matter. Willful failure to do so may result in revocation of probation, suspension, disbarment, denial of reinstatement, conviction of contempt, or criminal conviction.⁴

³ This court terminated respondent from the Alternative Discipline Program (ADP) in November 2009 due to his noncompliance with the conditions of the ADP and his failure to participate in the Lawyer Assistance Program.

⁴ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

D. Costs

The court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

VII. Order of Involuntary Inactive Enrollment

Respondent is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).⁵ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: January____, 2011

PAT McELROY
Judge of the State Bar Court

⁵The court recommends that any period of involuntary inactive enrollment be credited against the period of actual suspension ordered. (Bus. & Prof. Code, ← 6007, subd. (d)(3).)